

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**DEFENDANT'S ASSENTED-TO MOTION
TO CONTINUE TRIAL**

Defendant Eduardo Rodriguez hereby moves, with the assent of the government, to continue trial currently scheduled for May 1, 2006 to a date no sooner than September 11, 2006. As grounds for this motion, Mr. Rodriguez states that undersigned counsel presently is scheduled to start another trial on May 3, 2005 before Judge Saris in the matter of *United States v. Monteiro*, Criminal No. 03-10329, a four-defendant 21 racketeering act case that includes a murder. Undersigned counsel represents the lead defendant who is charged with murder and eight other racketeering acts, all shootings. That trial should take three to four weeks. Counsel would have moved sooner for a continuance, but there was a strong possibility that the *Monteiro* trial would not start on the scheduled date. With less than three weeks to go and no resolution of the *Monteiro* case in hand, counsel must devote all time and energy into preparing for that trial.

As further grounds for this motion, counsel states that efforts are underway to challenge one of Mr. Rodriguez' prior convictions. That challenge can be brought before a state district court as soon as the tape recording of the plea colloquy is made available. Even if that tape were made available next week, it would not be possible to have the matter heard in the state district court before the scheduled trial date in this case.

If Mr. Rodriguez were to succeed in vacating a prior conviction, there would be no possibility that would be eligible for an Armed Career Criminal mandatory fifteen-year sentence in this case. If he were not eligible for that sentence, this case likely would be resolved short of trial.

The government, through Assistant United States Attorney Robert Richardson, assents to this motion. Mr. Richardson presently has a trial and a lengthy evidentiary hearing scheduled in June and would prefer a trial date after June. A trial date no sooner than September 11, 2006 would accommodate both counsels' trial schedules and family obligations over the summer months of counsel, witnesses and presumably the court.

The requested continuance is in the interests of justice. No parties would be prejudiced should the court grant the continuance. For all of the foregoing reasons, the court should grant the continuance the parties seek.

EDUARDO RODRIGUEZ
By his attorney,

/s/ *E. Peter Parker*

E. Peter Parker
B.B.O. #552720
One Commercial Wharf North
Second Floor
Boston, MA 02110
(617) 742-9099

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on April 12, 2006.

/s/ *E. Peter Parker*
E. Peter Parker